

## IOWA UTILITIES BOARD

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IN RE:

SUMMIT CARBON SOLUTIONS, LLC

DOCKET NO. HLP-2021-0001

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### ORDER ADDRESSING REMAINDER OF HEARING

On January 28, 2022, Summit Carbon Solutions, LLC (Summit Carbon), filed a petition for a hazardous liquid pipeline permit with the Utilities Board (Board) to construct, operate, and maintain approximately 687 miles of 6- to 24-inch diameter pipeline for the transportation of liquefied carbon dioxide within the state of Iowa.

On August 22, 2023, the Board commenced the hearing in this docket. From the Board's June 16, 2023 order forward, the Board has consistently stated the hearing would continue until every witness had testified. As of the date of this order, there are still a number of persons who have not yet testified. Due to continuing conduct by attorneys in this proceeding, which, either by design, lack of preparation, or inability to comply with procedural requirements, the Board has been unable to complete the hearing to date. The Board will now establish the remainder of the schedule for this hearing. Based upon the information provided by counsel for the parties, the Board is able to determine the maximum number of days needed to conclude this hearing. The Board will resume the hearing at 10 a.m. November 6, 2023.

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Based upon discussions during the hearing on October 5, 2023, there are approximately 21 Jorde Landowners<sup>1</sup> witnesses left to testify, which, based upon comments from counsel for Jorde Landowners and the pace of the proceeding immediately prior to suspension, should take two days. Upon returning to the hearing venue, the Board will reserve November 6, 7, and 8, 2023, for the conclusion of witnesses who have yet to take the stand and are not subject to a waiver of cross-examination agreed to by the parties and the Board. Virtual testimony will be available to these witnesses. Additionally, on or before November 1, 2023, Jorde Landowners will be required to file its proposed witness schedule for the remainder of its witnesses.

November 9, 2023, will be reserved for rebuttal testimony by Summit Carbon, if needed. The hearing will not occur on November 10, 2023, in observation of Veterans Day. The Board realizes that November 7, 2023, is Election Day; however, the hearing must continue.

The hearing will then continue on November 16 and 17, 2023. These dates, similar to November 9, 2023, are reserved for any rebuttal testimony Summit Carbon seeks to present based upon the testimony presented by the other parties. Summit Carbon should make plans to have its witnesses available during this time. Additionally, should the presentation of witnesses conclude before November 9, 2023, as the Board has scheduled, Summit Carbon should have rebuttal witnesses available to begin its rebuttal, if it has any, upon the conclusion of witness testimony.

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<sup>1</sup> Jorde Landowners is a landowner group consisting of approximately 154 persons who began testifying on September 21, 2023.

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On September 27 and October 9, 2023, Intervenors Nancy Miller and Brad Miller (Miller Intervenors) and Mark Lundy, respectively, filed requests to withdraw their interventions and be allowed to testify as non-intervening eminent domain landowners. Miller Intervenors and Mr. Lundy assert they thought they had to intervene in order to be able to testify; however, they did not file any prefiled testimony in this matter.

The Board has reviewed these filings and will grant their requests to withdraw as intervening parties. The Board notes that it granted the Miller Intervenors' and Mr. Lundy's petitions to intervene in an order issued July 19, 2023, which included references to the Board's rules governing its proceedings. Miller Intervenors' and Mr. Lundy's motions to withdraw were filed after the start of the hearing and after their direct testimony was due. The Board is unsure whether Miller Intervenors were provided inaccurate information from other sources about what it means to be an intervenor and what was required of them. Based upon statements from multiple landowners and the failure of most intervenors to attend the hearing, it appears that one or more individuals or organizations were providing inaccurate information about the proceeding requirements to landowners. Such actions are harmful to the interests of landowners and should be reevaluated by those individuals. To the extent that improper or inaccurate advice is being provided by organizations represented by counsel, those attorneys have a duty to correct and prevent such misinformation. Nonetheless, the Board will grant Miller Intervenors' and Mr. Lundy's requests to withdraw as intervening parties.

On October 5, 2023, during discussions at the hearing, Summit Carbon stated the need for finality to the schedule to avoid the continual looping of witnesses. The

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Board agrees. The Board has accommodated numerous parties' requests to testify, as well as sending a questionnaire to all eminent domain landowners in June, with responses due by July 26, 2023. There are three remaining requests from landowners who have filed to testify based upon this outreach. The Board has provided considerably more outreach, flexibility, access, and information than would be typical for a hearing before an administrative body or court. Therefore, the Board will set aside November 6, 2023, to hear testimony from non-intervening eminent domain landowners, with the remaining days available for the conclusion of party witnesses. Given the late stage of the hearing, the Board does not intend to modify the remaining schedule, as described earlier in this order, barring exigent circumstances.

**IT IS THEREFORE ORDERED:**

1. Summit Carbon Solutions, LLC's, hearing shall resume at 10 a.m. November 6, 2023, at the Cardiff Event Center, 3232 First Avenue South, Fort Dodge, Iowa.
2. November 6, 7, and 8, 2023, shall be used to conclude the presentation of witnesses who have yet to take the stand and who are not subject to a stipulated agreement.
3. November 9, 16, and 17, 2023, shall be used for rebuttal testimony by Summit Carbon Solutions, LLC, if any.
4. The request to withdraw intervention filed by Nancy Miller and Brad Miller on September 27, 2023, is granted.
5. The request to withdraw intervention filed by Mark Lundy on October 9, 2023, is granted.

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6. On or before November 1, 2023, Jorde Landowners shall file its witness schedule for the remainder of its witnesses.

**UTILITIES BOARD**

Erik M. Helland Date: 2023.10.11  
15:54:15 -05'00'

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Joshua Byrnes Date: 2023.10.11  
16:07:23 -05'00'

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ATTEST:

Keetah A Horras Date: 2023.10.11  
16:13:27 -05'00'

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Sarah Martz Date: 2023.10.11  
15:51:29 -05'00'

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Dated at Des Moines, Iowa, this 11th day of October, 2023.